



**HAILEY ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 10.12.010 OF THE HAILEY MUNICIPAL CODE, TO PROVIDE FOR A 20 MILES PER HOUR SPEED LIMIT EXCEPT IN ALLEYS, IN SCHOOL ZONES, BY PARKS AND AS POSTED; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Idaho Code § 49-654 provides that where no special hazard or condition exists which requires lower speed limits, no person shall drive a vehicle at a speed in excess of 35 miles per hour in any residential, business or urban district;

WHEREAS, pursuant to Idaho Code § 49-207, the City of Hailey may determine on the basis of an engineering or traffic investigation and the residential, business or urban character of the neighborhood abutting a street in a residential, business or urban district that the speed limit established in Title 49 of the Idaho Code is greater than reasonable and safe;

WHEREAS, in *State v. Peck*, 153 Idaho 37 (Idaho App. 2012), the Idaho Court of Appeals acknowledged that a municipality can decrease the speed limits described in Idaho Code §§ 49-654 and 49-207 based on an engineering or traffic investigation and the residential, urban or business character of the neighborhood abutting a highway;

WHEREAS, Idaho Code § 49-207 provides that any alteration of speed limits on state highways must be based on a traffic engineering study approved by the Idaho Department of Transportation;

WHEREAS, the City of Hailey has not conducted a traffic engineering study which could alter the speed limit on Highway 75 within the City of Hailey;

WHEREAS, the Hailey City Engineer has conducted an engineering or traffic investigation and has conducted a review of other streets abutting residential, business and urban districts within the City of Hailey;

WHEREAS, in his report, the Hailey City Engineer cites a report from the Institute of Traffic Engineers, which states “[a]ccording to a Federal Highway Administration study, all states and most local agencies use the 85<sup>th</sup> percentile speed of free flowing traffic as the basic factor in establishing speed limits”;

WHEREAS, traffic speed studies conducted throughout Hailey between 2000 and 2012 on streets abutting residential, business and urban districts show that a 25 miles per hour speed limit would be appropriate based strictly on the 85<sup>th</sup> percentile speeds;

WHEREAS, both Idaho Code § 49-207 and the Federal Highway Administration study recognize that there are other factors which can be used to establish a reasonable and safe speed limit below the speed limit established by the 85<sup>th</sup> percentile speeds;

WHEREAS, the Hailey City Engineer has recommended a 25 miles per hour speed limit as a reasonable and safe speed limit on the recently reconstructed Woodside Boulevard, Countryside Boulevard and Aviation Drive because of the design of these streets and because of the separation of pedestrians and bicycles from vehicles;

WHEREAS, the Hailey City Engineer has recommended a 10 miles per hour speed limit as a reasonable and safe speed limit on alleys because of the narrow width of alleys, because of the inherent conflict between vehicles within the alley and vehicles entering and exiting adjacent property and because vehicles traveling on an alley must yield to traffic on intersecting streets;

WHEREAS, the Hailey City Engineer has recommended a 15 miles per hour speed limit as a reasonable and safe speed limit on streets adjacent to city parks and schools because of the danger posed to children and pedestrians and because there is significant congestion of vehicles and pedestrians at times in these areas;

WHEREAS, the Hailey City Engineer has recommended a 20 miles per hour speed limit as a reasonable and safe speed limit on all other streets within Hailey because of the number of obstructions to clear vision at intersections and because of the presence of pedestrians and children in the residential, business and urban districts; and

WHEREAS, the Hailey Mayor and City Council have reviewed the report of the Hailey City Engineer and has adopted his recommendation;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

**Section 1.** Section 10.12.010 of the Hailey Municipal Code is amended by the deletion of the stricken language and by the addition of the underlined language, as follows:

10.12.010 Speed limits designated. Every person operating a motor vehicle on a public street or alley in the city shall drive the same in a careful and prudent manner, and not to exceed the following speeds:

- A. Twenty-five miles per hour on Woodside Boulevard, Countryside Boulevard and Aviation Drive ~~Main Street, from one thousand two hundred seventy-three feet north of mile post 117 at North First Street to two thousand six hundred fifteen feet south of mile post 116 on South Main Street;~~
- B. ~~Fifteen~~Ten miles per hour in all alleys;
- C. Fifteen miles per hour through school zones as indicated by school zone signs posted at school zone areas;
- D. Fifteen miles per hour on all streets which are adjacent to city parks;

~~E. Twenty miles per hour in all residential areas, except as posted.~~

~~F. Twenty-five miles per hour in all other areas of the city not specified in subsections A through D of this section, except as posted.~~

G. Where a speed limit is posted, no person shall operate a motor vehicle in excess of the posted speed limit. Speed limits will be posted in the city as authorized by Idaho Code Section 49-207, et seq.

**Section 2. Severability Clause.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

**Section 3. Repealer Clause.** All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL** and approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor

ATTEST:

\_\_\_\_\_  
Mary Cone, City Clerk

Publish: Idaho Mountain Express \_\_\_\_\_, 2013

# City Engineer Memo

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**To:** Mayor Fritz Haemmerle  
City Council Members

**CC:** Heather Dawson, City Administrator  
Jeff Gunter, Hailey Police Chief  
Ned Williamson, City Attorney

**From:** Tom Hellen, City Engineer

**Date:** 2/4/2013

**Re:** City Street Speed Limits

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I have been requested to provide an engineering recommendation for the speed limits on city streets, other than Main St. where ITD now has jurisdiction. Let me first provide the Idaho Statutes as background information to you.

Idaho Statute Title 49, Motor Vehicles; Chapter 6, Rules of the Road; provides as follows:

49-654. (2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

- (a) Thirty-five (35) miles per hour in any residential, business or urban district, unless otherwise posted in accordance with section 49-207(2) or (3) Idaho Code;

Idaho Statute Title 49-207 provides as follows:

49-207. (2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering or traffic investigation, **and** the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district **that the speed limit permitted under this title is greater than is reasonable and safe under the conditions found to exist** upon a highway or part of a highway or because of the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

- (a) Decreases the limit within a residential, business or urban district; (emphasis added)

I have added the emphasis to note that it is not just an engineering traffic study result that dictates a speed limit; other factors need to be considered when determining what is "reasonable and safe" for our city streets.

According to a Federal Highway Administration (FHWA) study, states and local agencies use the 85<sup>th</sup> percentile speed of free flowing traffic as the basic factor in establishing speed limits. See attached information from the Institute of Traffic Engineers.

In reviewing traffic speed studies conducted on various city streets from 2000 to present there are some that show that a 25 mph speed limit would be recommended based strictly on the 85<sup>th</sup> percentile speeds in the studies. Both the FHWA study and Idaho Code Section 49-207 allows a city to consider factors other than the 85<sup>th</sup> percentile rule. As noted in the last two paragraphs of the attachment there are other factors taken into consideration when setting a speed limit.

In reviewing the locations of these studies as well as my knowledge of the City of Hailey streets there are conditions such as hills, plantings, driveways, fences or other obstructions to clear vision at intersections as well as the presence of pedestrians and children in residential areas that present a "character of the neighborhood" reason for a reduced speed limit on city streets.

With the exception of Woodside Boulevard, Countryside Boulevard and Aviation Drive, where street layout provides for the safety of bicyclists and pedestrians and 25 mph is recommended, I recommend that the City Council retain 20 mph as the speed limit on all city streets except as otherwise provided for in Municipal Code Chapter 10.12.010. Revisions to Chapter 10.12.010 for clarification are suggested as follows:

10.12.010 Speed limits designated. Every person operating a motor vehicle on a public street or alley in the city shall drive the same in a careful and prudent manner, and not to exceed the following speeds:

A. Twenty-five miles per hour on Woodside Boulevard, Countryside Boulevard and Aviation Drive Main Street, from one thousand two hundred seventy-three feet north of mile post 117 at North First Street to two thousand six hundred fifteen feet south of mile post 116 on South Main Street;

B. Fifteen miles per hour in all alleys;

C. Fifteen miles per hour through school zones as indicated by school zone signs posted at school zone areas;

D. Fifteen miles per hour on all streets which are adjacent to city parks;

~~E. Twenty miles per hour in all residential areas, except as posted.~~

~~FE.~~ Twenty-five miles per hour in all other areas of the city not specified in subsections A through ~~E~~ D of this section, except as posted.

~~GE.~~ Where a speed limit is posted, no person shall operate a motor vehicle in excess of the posted speed limit. Speed limits will be posted in the city as authorized by Idaho Code Section 49-207, et seq.

AGENDA ITEM SUMMARY

DATE: 3-4-13

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Ordinance No. \_\_\_\_ (Bicycle Ordinance)

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a proposed bicycle ordinance, which would replace our present Chapter 10.40 of the Hailey Municipal Code. We discussed this draft ordinance at the February 4, 2013, council meeting. Based on that meeting, I made two changes. First, I deleted the language which prohibited a person who is either too large or too small to operate a bicycle safely. Second, I amended the penalty provision to make a violation of the ordinance an infraction, instead of a misdemeanor. For your information, the fine for bicycle infraction is presently \$61.50.

Ned

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

____ City Attorney	____ Clerk / Finance Director	____ Engineer	____ Building
____ Library	____ Planning	____ Fire Dept.	_____
____ Safety Committee	____ P & Z Commission	____ Police	_____
____ Streets	____ Public Works, Parks	____ Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct a public hearing and if satisfactory, make a motion to adopt Ordinance No. \_\_\_\_ and authorize the mayor to conduct the first reading.

FOLLOW-UP REMARKS:

HAILEY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING CHAPTER 10.40 OF THE HAILEY MUNICIPAL CODE AND REPLACING IT WITH A NEW CHAPTER 10.40, ENTITLED BICYCLES, TO ESTABLISH DEFINITIONS, TO ESTABLISH RULES OF THE ROAD FOR BICYCLES, TO PROVIDE FOR VOLUNTARY REGISTRATION, AND TO PROVIDE A PENALTY MAKING A VIOLATION OF CHAPTER 10.40 PUNISHABLE AS AN INFRACTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Hailey City Council wishes to update the regulations governing the use of bicycles on roadways and sidewalks; and

WHEREAS, the Hailey City Council believes the amendments of Chapter 10.40 of the Hailey Municipal Code promotes the public health, safety and general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:**

**Section 1.** Chapter 10.40 of the Hailey Municipal Code is hereby repealed in its entirety and replaced by a new Chapter 10.40, as follows:

Chapter 10.40

BICYCLES

Sections:

- 10.40.010 Definitions.
- 10.40.020 Traffic Laws Apply to Persons Riding Bicycles
- 10.40.030 Required Bicycle Equipment
- 10.40.040 Riding on Bicycles
- 10.40.050 Clinging to Vehicles
- 10.40.060 Riding on Roadways
- 10.40.070 Using Provided Bicycle Lanes and Bicycle Paths
- 10.40.080 Riding on Sidewalks and Crosswalks
- 10.40.090 Passing Other Vehicles
- 10.40.100 Bicyclists not Required to Dismount when Stopping
- 10.40.110 Turn Signals
- 10.40.120 Riding in Groups
- 10.40.130 Bicycle Parking
- 10.40.140 Use of Bicycle Paths and Bicycle Lanes by Other Non-Motorized Modes of Transportation
- 10.40.150 Group Events
- 10.40.160 Unlawful Use of Bicycle Lanes and Bicycle Paths
- 10.40.170 Reckless Operation

- 10.40.180 Bicycle Licenses
- 10.40.190 Violation-Penalty.

10.40.010 Definitions. For the purposes of this chapter, the capitalized terms have the following meanings:

“Bicycle” shall mean every vehicle having wheels propelled exclusively by human power upon which any person may ride, including tricycles and other multicycles, but excluding scooter and similar devices.

“Bicycle Lane” shall mean a portion of a roadway that has been designated by signs and pavement markings for preferential or exclusive use by bicyclists. Bicycle lanes are facilities that are placed on both sides of a street, and they carry bicyclists in the same direction as adjacent vehicle traffic.

“Bicycle Path” or “Bikeway” shall mean any road, street or path that in some manner is specifically designated for Bicycle travel, regardless of whether such facilities are designated for the exclusive Bicycle use or are to be shared with other travel modes.

10.40.20 Traffic Laws Apply to Persons Riding Bicycles.

- A. Every person, regardless of age, who operates a Bicycle upon a roadway, public parking lot, sidewalk, Bicycle Path , Bicycle Lane or other public vehicular right-of-way in the City of Hailey shall be granted the same rights and shall be subject to the same responsibilities applicable to a motor vehicle operator by the laws of the State of Idaho, and the provisions of Title 10 of the Hailey City Code not in conflict with and as authorized under Title 49, Idaho Code; except where provisions of those laws and ordinances by their very nature can have no application to Bicycles, or where portions of this Ordinance direct otherwise.
- B. Any peace officer of jurisdiction as defined in Idaho Code § 19-5101 (d), operating a Bicycle during the course of his or her duties is exempt from the requirements of section A. if the Bicycle is being operated under any of the following circumstances:
  - a. In response to an emergency call.
  - b. While engaged in rescue operations.
  - c. In the immediate pursuit of an actual or suspected violator of the law.

This section does not relieve a peace officer from the duty to operate a Bicycle with due regard for the safety of all persons.

10.40.030 Required Bicycle Equipment. No person shall operate a Bicycle without the following equipment:

- A. Brakes capable of causing the Bicycle to stop within twenty-five feet (25') at ten (10) miles per hour on dry, level, clean pavement.
- B. A permanent seat designed for the Bicycle being operated.
- C. A bell, the human voice or other audible warning device capable of being heard at least one hundred feet (100'), except that no Bicycle shall be equipped nor shall any person use upon a Bicycle any siren or whistle.
- D. When in use at nighttime, a red reflector on the rear visible from a distance of three hundred feet (300') when directly in front of lawful upper beams of a motor vehicle, and a forward-facing white light attached either to the Bicycle or the bicyclist which is visible from a distance of at least five hundred feet (500') in front of the Bicycle. A Bicycle shall be equipped with a front-facing white or yellow reflector when the bicyclist uses a generator powered light which is unlit when the Bicycle is stopped.

10.40.040 Riding on Bicycles.

- A. No person riding or operating a Bicycle shall ride other than upon or astride a permanent and regular seat attached thereto.
- B. No Bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- C. Every person operating a Bicycle shall keep at least one hand on the handlebar at all times, and shall carry nothing which prevents full control of the Bicycle or obstructs the operator's vision.

10.40.50 Clinging to Vehicles. Persons riding or operating Bicycles shall not attach themselves or such Bicycles to a moving vehicle. This section shall not prohibit attaching a trailer device to a Bicycle which is designed to accommodate such a device.

10.40.060 Riding on Roadways.

- A. No person shall operate a Bicycle on a roadway against the flow of motorized traffic, except where permitted by official signs or pavement markings.
- B. Every person operating a Bicycle upon a two-way roadway which does not contain a Bicycle Lane is entitled to use the lane appropriate for the intended destination, including the right-hand lane, and any designated bus lane. The Bicycle rider shall proceed in the same direction of travel as

other vehicles authorized to use that lane. On one-way roadways, a Bicycle may be operated in any existing lane.

- C. The operator of a Bicycle traveling at a rate of speed which delays a vehicle or vehicles following in the same lane shall be required, when it is unlawful or unsafe for the following vehicle to pass, to move as far to the right of the traveled roadway, or to the left where the Bicycle is in the left lane of a one-way roadway, as is safe under the conditions then existing; provided, however, that when the bicyclist is within fifty feet (50') of an intersection, he shall not be required to move to the right or left until he has moved through the intersection.
- D. In right turn only lanes where traffic signs or signals indicate a bus, trolley or street car is permitted to go straight rather than turn right, a Bicycle operator shall be permitted to go straight rather than turn right.

10.40.070 Using Provided Bicycle Lanes and Bicycle Paths.

- A. Wherever a Bicycle Lane is present upon a roadway, a bicyclist shall use that lane and shall not use the roadway; except that the bicyclist shall not be required to use or remain in a Bicycle Lane:
  - 1. When the lane is of insufficient width to permit safe Bicycle operation;
  - 2. When the condition of the pavement, or the presence of water, dirt, glass or other foreign objects upon the pavement prevents safe Bicycle operation in the lane;
  - 3. When moving into position to make a right or left turn;
  - 4. When an opening car door or other obstruction in an adjacent parking lane requires movement out of the lane.
- B. Wherever a Bicycle Path has been provided immediately adjacent to a roadway, a bicyclist shall use that path and shall not use the roadway if official signs or markings so direct; except that a bicyclist shall not be required to use or remain on a Bicycle Path:
  - 1. When the path is of insufficient width to permit safe Bicycle operation; or
  - 2. When the condition of the surface, or the presence of water, dirt, glass or other foreign objects upon the surface prevents safe Bicycle operation on the path.

10.40.080 Riding on Sidewalks and Crosswalks.

- A. A Bicycle may be operated upon a sidewalk, except when the number of pedestrians using the sidewalk renders riding on the sidewalk unsafe because of the risk of colliding with one of the pedestrians, in which case the Bicycle rider must dismount and walk the Bicycle to an area where safe riding may resume. If a bicyclist leaves a sidewalk with an official traffic control device or a marking on the roadway requiring a bicyclist to dismount, the bicyclist shall dismount from his/her Bicycle and cross the roadway by walking the Bicycle only within a marked crosswalk.
- B. A Bicycle may be operated upon and within a crosswalk, unless an official traffic control device or a marking on the roadway requires a bicyclist to dismount, in which case a bicyclist shall dismount from his/her Bicycle and cross the roadway by walking the Bicycle only within a marked crosswalk.
- C. Any bicyclist riding upon a sidewalk, or across a roadway upon and within a crosswalk, shall yield the right-of-way to any pedestrian and shall give, an audible warning before overtaking and passing such pedestrian. The audible warning may be given by the voice or by a bell or other lawful device capable of giving an audible signal to the person or persons being overtaken and passed.
- D. A bicyclist riding upon the sidewalk, or across a roadway upon or within a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.
- E. A bicyclist riding on the sidewalk shall not suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

10.40.090 Passing Other Vehicles. The operator of a Bicycle may pass another vehicle upon the right when traveling on a two-way roadway and may pass on the left when traveling in the left lane of a one-way roadway, but only under conditions safely permitting such movement. A bicyclist shall not pass between two (2) lanes of motor vehicles proceeding in the same direction.

10.40.100 Bicyclists Not Required to Dismount when Stopping. Whenever a bicyclist is required to bring a Bicycle to a stop in conformance with an official traffic control device, the operator shall halt forward motion but shall not be required to dismount or remove his/her feet from the pedals.

10.40.110 Turn Signals. The operator of a Bicycle intending to turn shall signal his intent to turn with the appropriate hand and arm signal at least one hundred feet (100') prior to turning. The hand signal need not be continuous.

10.40.120 Riding in Groups. Persons riding Bicycles shall not ride more than two (2) abreast except upon Bicycle Paths of twelve feet (12') or more. Bicyclists operating two (2) abreast upon a roadway, or Bicycle Path, shall return to a single file configuration when a vehicle approaches from behind in the same lane.

10.40.130 Bicycle Parking. Bicycles shall be parked using established Bicycle racks. In the event Bicycle racks are not available, Bicycles shall be parked in such a manner as to not obstruct or impede the movement of pedestrians, motor vehicles or other Bicycles, or as to not cause damage to trees, shrubs or other living plants.

10.40.140 Use of Bicycle Lanes and Bicycle Paths by Other Non-Motorized Modes of Transportation.

- A. Pedestrians shall not travel upon a Bicycle Lane where a sidewalk is provided or upon a Bicycle Path where a separate foot path has been provided.
- B. When a pedestrian is traveling upon a Bicycle Lane or Bicycle Path, a bicyclist approaching the pedestrian from the rear shall be required to give audible warning when overtaking and passing such pedestrian.
- C. A bicyclist shall always yield the right-of-way to a pedestrian who is physically disabled.

10.40.150 Group Events. A Bicycle race, parade or other group event for bicyclists may be conducted upon public rights-of-way in the City of Hailey if a special events permit is obtained. Special events permit applications shall be made through the office of the City Clerk.

10.40.160 Unlawful Use of Bicycle Lanes and Bicycle Paths. It shall be unlawful for any person without authorization from the local authority having jurisdiction thereof to cut, alter, break, injure, damage or perform work upon any Bicycle Path or Bicycle Lane in the City of Hailey.

10.40.170 Reckless Operation. A person who uses or rides a Bicycle on a sidewalk, street, roadway, highway or any public or private property open to public use, carelessly and heedlessly, or without due caution and circumspection, or at such a speed or in any other manner as to endanger or be likely to endanger any person or property shall be guilty of reckless bicycling.

10.40.180 Bicycle Licenses.

- A. Registration Recommended. The City of Hailey, as a matter of public policy, recommends that all residents of Hailey who own a Bicycle have such Bicycle registered with and tagged by the Hailey Police Department or its designated agents. The purpose of a Bicycle license is to assist the

Bicycle owner, the Hailey Police Department, or other public safety agencies in recovering a Bicycle should the Bicycle be stolen or otherwise misplaced.

- B. Registration. A Bicycle may be registered by filing with the Hailey Police Department the name and address of the owner together with a complete description of the Bicycle on forms provided by or made available to the Hailey Police Department. The fee for registration may be established by resolution of the Hailey City Council. The registration fee applies for the entire period the license registrant owns the license Bicycle. Registration shall be serially numbered and kept on file by the Hailey Police Department. Upon such registration, the Hailey Police department or its designee shall cause an identification tag to be affixed to the registered Bicycle which shall be serially numbered to correspond with the registration number. Such tag shall remain affixed to the Bicycle unless removed by the Hailey Police Department for cause or for re-tagging upon re-registration.
- C. Destruction of Tag. Any person who willfully removes, defaces, or destroys any Bicycle identification tag issued by the City of Hailey on a Bicycle not owned by the person shall be guilty of a misdemeanor and upon conviction may be sentenced to jail for not more than six (6) months or may be fined not more than three hundred dollars (\$300.00), or may be punished by both fine and imprisonment.
- D. Transfer or Non-Use. Within ten (10) days after any Bicycle registered hereunder shall have changed ownership or have been dismantled or taken out of operation, the person whose name the Bicycle has been registered is encouraged to report such information to the Hailey Policy Department. in case of change of ownership, upon payment of the registration fee and production of a bill of sale signed by the previous registered owner, the registration shall be changed to show the name of the new owner or registered with a new number and cancellation of the former.

10.40.190 Violation-Penalty. Any person violating any of the provisions of this chapter shall be guilty of an infraction, punishable by a fixed penalty and court costs set forth in the Idaho Infraction Rules for pedestrian and bicycle infractions.

Section 2. Severability Clause. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 3. Repealer Clause. All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 4.** Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL** and approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2013.

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Fritz X. Haemmerle, Mayor  
City of Hailey

ATTEST:

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Mary Cone, City Clerk



**AGENDA ITEM SUMMARY**

DATE: 3-4-13

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

**SUBJECT:**

Request to Amend Covenants, Conditions and Restrictions for Old Cutters Subdivision

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

See attached memo and documents.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments:

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

____ City Attorney	____ Clerk / Finance Director	____ Engineer	____ Building
____ Library	____ Planning	____ Fire Dept.	_____
____ Safety Committee	____ P & Z Commission	____ Police	_____
____ Streets	____ Public Works, Parks	____ Mayor	_____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Conduct a public hearing and make one of the motions described in the memo.

**FOLLOW-UP REMARKS:**



# MEMORANDUM

TO: Hailey Mayor and City Council Members

FROM: Ned C. Williamson

DATE: March 4, 2013

RE: Revisions to Old Cutters Subdivision Covenants, Conditions and Restrictions

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## REQUEST

The developer of Old Cutters ("OCI") has requested that Hailey consent to the amendment of six provisions of the Declaration of Covenants, Conditions and Restrictions of Old Cutters Subdivision ("CCR's"). I am attaching a proposed First Amendment to the Declaration of Covenants, Conditions and Restrictions of Old Cutters Subdivision ("First Amendment"). The First Amendment shows the language to be added and deleted and the reason(s) for the proposed amendment in blue. To allow for comparison, I am also attaching the relevant existing provisions of the CCR's.

## PERTINENT FACTS

During the annexation application, OCI proposed a subdivision which emulated Old Hailey. At the beginning of the annexation application process, OCI expressed a desire to develop a subdivision with houses of certain size and height and with alleys which would access garages at the rear of the lots. As part of the Annexation Agreement, OCI and the City of Hailey agreed, among other things, that the requirements and restrictions described in attached Exhibit 3 of the Annexation Agreement would be included in the CCR's. Exhibit 3 was intended to guide development of homes in a manner consistent with Old Hailey. The CCR's contain a provision requiring Hailey's consent if there is a proposed amendment to several sections of the CCR's.

The relevant Cutters properties affected by the revisions to the CCR's are zoned GR and LR-1. I believe there are 75 GR lots and 37 LR-1 lots in the Cutters Subdivision.

Recently, OCI has submitted four residential building permit applications.<sup>1</sup> The proposed homes are located on lots in Blocks 1, 5, 7 and 8. The four lots are highlighted in pink on the enclosed plat. The homes are all two story residences, ranging in size from 1792 to 2955 square feet. The second stories on the homes range from 643 to 1132 square feet. All of the lots are 10,000 square feet or more in size.

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<sup>1</sup> I have been told that OCI will be submitting a fifth building permit application in the near future.



## ANALYSIS

The analysis below outlines the developer's requests, states the relevant Annexation Agreement provision (set forth in Exhibit 3) and compares each requested revision to the CCR's with the zoning requirements of GR and LR-1 zoning districts.

1. OCI is requesting a revision to Section 2.1.1 of the CCR's (Use and Size of Dwelling Structure). For lots in excess of 8,000 square feet, OCI specifically requests to delete the requirements of a minimum 1,800 square foot home and a second story with a minimum 400 square feet. Exhibit 3 specifically requires a minimum 1800 square foot residence excluding a garage and basement and requires a 400 square foot second story. The bulk requirements for the LR zoning district do not contain any requirement addressing the size of a home's footprint or lot coverage. At most, the bulk requirements for the GR zoning district contains a minimum floor area for a detached ADU and a total lot coverage for a property with a detached ADU. The zoning ordinance does not require a second story.

2. OCI is requesting a revision to Section 2.1.4 of the CCR's (Fencing). OCI requests that the maximum fence height for side and rear yard fences be increased from 60" to 72". Exhibit 3 establishes a guideline of a maximum 42" high fence along a street and a maximum 60" high fence elsewhere. OCI's request is consistent with Hailey's fencing height requirements in the GR and LR zoning districts.

3. OCI is requesting a revision to Section 2.1.6 of the CCR's (Wood Stoves). OCI requests that the CCR's delete the requirement that wood burning stoves have a catalytic converter but now require the stove to be EPA certified. Exhibit 3 requires wood stoves to have catalytic converters. There is no regulation of wood stoves in Hailey's Zoning Ordinance.

Hailey's Sustainability Coordinator states "if trying to minimize air pollutants (and the amount of wood burned), the best solution would be both EPA certified AND catalytic converter. EPA certified stoves have established emission limits for both non-catalytic and catalytic. Non-catalytic has a higher emissions limit than does catalytic, meaning non-catalytic are allowed to emit more air pollution (they also burn more wood per heat unit output). To my knowledge there isn't any technology that beats catalytic, but not all are equal and requiring an EPA certified catalytic ensures minimal emissions. EPA ensures this by testing products and listing them as certified when they fall below the emission limit for the two categories of stoves – catalytic and non-catalytic."



4. OCI is requesting a revision to Section 2.17 of the CCR's (Livestock and Pets). This amendment does not require Hailey approval. *See* CCR's, § 10.2.1. This proposed amendment appears to be consistent with Hailey's relatively recent amendment to the zoning ordinance allowing for a maximum of three hens but no roosters. Hailey allows urban agriculture (e.g., keeping up to 3 chickens) in the GR and LR-1 zoning districts. The minimum lot size for the GR zoning district is 6000 square feet, while the minimum zoning lot size for the LR-1 zoning district is 8000 square feet. Under this proposed restriction, I believe 58 lots would qualify.

5. OCI is requesting a revision to Section 2.18 of the CCR's (Landscaping). This amendment does not require Hailey approval. *See* CCR's, § 10.2.1. This request merely requires the landscaping to be well maintained. Exhibit 3 merely states that landscaping must include the planting of trees. Hailey's Zoning Ordinance does not require maintenance of landscaping.

6. OCI is requesting a revision to Exhibit A, Section 3(b) of the CCR's (Roofs). This request would allow flat roofs on 9 of the 12 blocks. I believe these 9 blocks contain 52 lots or about 45% of the lots within the subdivision. If this request is approved, the three remaining blocks (Blocks 5, 6 and 7) would still require pitched roofs. Blocks 5, 6 and 7 are highlighted in yellow on the attached plat. Exhibit 3 states that roofs shall be no flatter than 6:12 and no steeper than 12:12. As noted in Exhibit 3, the pitched roofs are "intended to look like the traditional, older houses found in Old Hailey." The Zoning Ordinance does not address types of roofs to be constructed. Unlike new construction or remodels in the Townsite Overlay District, new homes or remodels in the Cutters Subdivision are not subject to city design review.

As noted above, the requests in paragraphs 4 and 5 do not require Hailey approval. The other requests in paragraphs 1, 2, 3 and 6 are addressed in Exhibit 3 and have been agreed to by the parties. Of these requests, the requests in paragraphs 1 and 6 seem to be the most significant design standards and would have the most impact on the desire to be consistent with the homes in Old Hailey.

If Hailey approves all or some of the proposed requests for amendment to the CCR's, please note that "City of Hailey Approval" found on page 5 of the First Amendment needs to be corrected, at the very least, to delete the reference to Section 2.1.2. There is no proposal to amend Section 2.1.2.



### OPTIONS

I believe you have the following options for the requests set forth in paragraphs 1, 2, 3 and 6:

- 1) **Continue** the matter to a date certain to allow for more information to be presented. In this scenario, you should make a motion to continue to a date certain.
- 2) **Table** the matter to a date uncertain. In this scenario, you should make a motion to table to a date uncertain.
- 3) **Approve all** of the proposed changes. In this scenario, you should make a motion to approve the First Amendment and authorize the mayor to sign.
- 4) **Approve some** of the proposed changes and **deny the other** proposed changes. In this scenario, you should make a motion to approve the First Amendment with the provisions you wish to amend and authorize the mayor to sign a revised First Amendment with the approved amendments.
- 5) **Deny all** of the proposed changes. In this scenario, you should make a motion to deny the First Amendment.
- 6) **Amend** the CCR's to delete any requirement that Hailey has to consent to an amendment of the CCR's.
- 7) **Consider expanding the Townsite Overlay District** to include all or part of the Old Cutters Subdivision. You might want to consider this option if Hailey decided to approve the proposed design changes (*i.e.*, ¶'s 1 and 6, above). But, an expansion of the Townsite Overlay District would not necessarily require a minimum 1,800 square foot home, a second story with a minimum 400 square feet or a pitched roof. At most, expansion of the Townsite Overlay District would promote construction and remodels to be consistent with the Townsite Overlay District guidelines.

encl.

cc: John Campbell (w/ encl.)



**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

**James P. Speck, Esq.  
SPECK & AANESTAD  
A Professional Corporation  
Post Office Box 987  
Ketchum, Idaho 83340**

(space above line for Recorder's Use)

**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF OLD CUTTERS SUBDIVISION**

This First Amendment to Declaration (the  
"Amendment") is made as of the date set forth below as follows:

1. The Declaration Establishing Covenants, Conditions and Restrictions for Old Cutters Subdivision was recorded November 29, 2007 as Instrument No. 553633 in the records of Blaine County, Idaho (the "Declaration").

2. Section 2.1.1 of the Declaration shall be amended to read as follows:

2.1.1. Use and Size of Dwelling Structure. All Lots shall be exclusively for residential purposes and such home occupations as may be permitted by applicable zoning ordinances. The total gross living area of any primary residence located on a single family residential Lot shall not be less than 1,200 sq. ft., exclusive of decks, open porches, carports, garages, and basements. The total gross living area of any townhouse unit constructed on a Duplex Lot shall not be less than 1,100 sq. ft., exclusive of decks, open porches, carports, garages and basements, and at least 400 sq. ft. of living area must be on a second story. The gross living area of any townhouse unit constructed on a Cottage Lot shall be not less than 450 sq. ft, and not greater than 1,200 sq. ft., exclusive of decks, open porches, carports, garages and basements.

(Reason: The previous section had larger minimum square footage requirements. Many prospective buyers want to build smaller, energy efficient, less material intensive designs so as to have a lower carbon footprint, as well as smaller environmental impact. We do not see a good reason to demand that people build a bigger house than they want. However, we don't want houses to be so small that they look like shacks and thus compromise the character of the neighborhood. Even small houses in old Hailey are 1,200 sq. ft..

We also removed the requirement for a second story. Lots of older prospective buyers do not want to deal with going upstairs. Again, since many houses in old Hailey are single story, and look nice, we want to remove this requirement.)

3. Section 2.1.4 of the Declaration shall be amended to read as follows:



2.1.4. Fencing. All property boundary fencing within Blocks 1, 2, 3, 8 and 12 shall be post and rail with a maximum top rail height of 42" and a minimum bottom rail height of 18" above the finished grade surface of the Lot. Within Blocks 4, 5, 6, 7, 9, 10 and 11, fencing along property boundaries that front street shall be not more than 42" high, all other fences shall be not more than 72" high, and solid fences shall have features every 16'.

(Reason: Fencing in lots on the perimeter of the subdivision needs to match Fish and Game requirements. However, fences attached to houses in these areas, meant for kennels, need not conform to lot perimeter fencing. Additionally, the old language listed 60" as maximum fence height. An athletic dog can jump over a 60" high fence. That is why we now propose 72" as the maximum height. Lots of houses in old Hailey have fencing along the side and rear property lines that are 72" high.)

4. Section 2.1.6 of the Declaration shall be amended to read as follows:

2.1.6. Wood Stoves. All wood burning stoves must be EPA certified.

(Reason: The old language said wood burning stoves need to have catalytic converters. Newer technology works better. EPA certified wood burning stoves burn cleaner than stoves with catalytic converters.)

5. Section 2.17 of the Declaration shall be amended to read as follows:

2.17. Livestock and Pets. No horses or other livestock, including but not limited to cows, pigs, or sheep, nor exotic or dangerous pets or animals may be kept on any or in any Lot, provided that this covenant shall not operate to prohibit the keeping of a reasonable number of household pets. When outdoors, all pets shall be either in a kennel or on a leash at all times. All outdoor kennels shall be completely enclosed, including a roof, to prevent mountain lion depredation. All pet food shall be stored and fed in a manner that does not attract nuisance wildlife such as skunks and raccoons. Lot Owners shall be responsible for controlling nuisance wildlife, and any actions taken to alleviate nuisance wildlife problems shall be those prescribed by the Idaho Department of Fish and Game. Chickens may be kept as per Hailey City ordinances on lots larger than 12,000 sq. ft.

(Reason: We want people to have chickens if they want. The old language prohibited chickens. However, we don't want chickens on small lots, so we have the 12,000 sq. ft. minimum requirement for lot size.)

6. Section 2.18 of the Declaration shall be amended to read as follows:

2.18. Landscaping. A landscaping plan must accompany all plans submitted to the DRC. Landscaping is required, and although it may be low maintenance in nature, it must be well maintained. The objective of the landscaping is to permit a



pleasant visual transition from the improvements to the natural ground cover. A reasonable number of trees and shrubs are required. Failure to adhere and/or complete the landscaping plan within two years from obtaining design review approval from the DRC for an Improvement requiring design review approval will constitute express authorization for the Association to take any and all action necessary to complete the landscaping plan and assessing the Lot Owner for the cost of completing the landscaping plan.

(Reason: We want landscaping to be well maintained. The old language had no requirement that landscaping be well maintained.)

7. Section 3.B of Exhibit A to the Declaration shall be amended to read as follows:

**3. ARCHITECTURAL DESIGN.**

**b. ROOFS.**

Roofs for all structures except entry porches shall be no flatter than 6:12 pitch and no steeper than a 12:12 pitch. Entry porch roofs may be flatter than a 6:12 pitch. Every roof must have a minimum of a one (1) foot overhang. Permissible roof materials are limited to non-reflective materials. Flat roofs (pitched 1:12 or less) are permissible in Blocks 1, 2, 3, 4, 8, 9, 10, 11 and 12.

(Reason: Some prospective buyers want to have more contemporary design houses with flat roofs. We would like to keep the old Hailey feel of the central part of Old Cutters, but think flat roofs are acceptable on lots at the perimeter of the subdivision. Additionally, many of the perimeter blocks are slightly elevated above the valley floor. Flat roofs will minimize visual impact, allowing for shorter structures.)

8. All other provisions of the Declaration shall remain the same and in full force and effect.

9. The undersigned, as president and secretary of Old Cutters Homeowners Association, Inc., hereby certify that the amendments set forth above have been approved by the vote or written consent of at least three-fourths (3/4) of the Owners of Lots in the Subdivision, has consented to this Amendment, as required by Section 10.2.1 of the Declaration.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date set forth below.

OLD  
CUTTERS HOMEOWNERS ASSOCIATION,  
INC.











## EXHIBIT 3

### Old Cutters CC&R Outline

CC & R's will be drafted to insure high quality design and construction mirroring the attractive sections of Old Hailey. A primary goal is to insure the creation of an attractive, well-maintained, intimate community.

- Minimum square footage for residence. 1800 sq.ft. excluding garage and basement. At least 400 sq.ft. must be on the upper floor.
- Garages off alley, setback to allow for snow storage. 20' setback if garage oriented perpendicular to alley, 5' setback if garage parallel to alley.
- Fence guidelines- max 42" high along street. Max 60" high everywhere else. Features every 16' for solid fences.
- Landscape maintenance
- Maintenance of sidewalk area in city ROW
- Boats must be stored in garages. No on-site motor home or RV storage, unless in a garage.
- Wood stoves must have catalytic converters
- Landscaping must include the planting of trees (Size and number to be determined.).
- Solar collectors are permitted. They must be flush mounted to the roof. No roof mounted tanks.
- No mineral extraction allowed on lots.

### Architectural Guidelines -

Architectural guidelines apply only to the street side of the house. Residences are intended to look like the traditional, older houses found in Old Hailey.

Roof Pitch - no flatter than 6:12, no steeper than 12:12

Entry porch roofs may be flatter than 6:12

Minimum 1' roof overhang

Tall windows

Front porch - minimum 6' x 12'

Trim (fascia, window, corner) to be a different color than the body of the house



**Instrument # 553633**

HAILEY, BLAINE, IDAHO

2007-11-29

09:58:54 No. of Pages: 38

Recorded for : ALPINE ENTERPRISES INC

JOLYNN DRAGE

Fee: 114.00

Ex-Officio Recorder Deputy

Index to: COVENANTS & RESTRICTIONS



DECLARATION ESTABLISHING COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
OLD CUTTERS SUBDIVISION



## 2 - USE REGULATIONS AND RESTRICTIONS

2.1. Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

2.1.1. Use and Size of Dwelling Structure. All Lots shall be used exclusively for residential purposes and such home occupations as may be permitted by applicable zoning ordinances. The total gross living area of any primary residence located on a single family residential Lot which is greater than 8,000 sq. ft. in Lot area, shall be not less than 1,800 sq. ft., exclusive of decks, open porches, carports, garages and basements, and at least 400 sq. ft. of living area must be on a second story. The total gross living area of any primary residence located on a single family residential Lot which is equal to or less than 8,000 sq. ft. in Lot area shall be not less than 1,200 sq. ft., exclusive of decks, open porches, carports, garages and basements. The total gross living area of any townhouse unit constructed on a Duplex Lot shall be not less than 1,100 sq. ft., exclusive of decks, open porches, carports, garages and basements, and at least 400 sq. ft. of living area must be on a second story. The total gross living area of any townhouse unit constructed on a Cottage Lot shall be not less than 450 sq. ft., and not greater than 1,200 sq. ft., exclusive of decks, open porches, carports, garages and basements.

2.1.2. Garage Setbacks. Garages which are accessed from an alley shall be setback to allow for snow storage. If the garage is oriented perpendicular to the alley it shall be setback at least twenty (20) feet. If it is oriented parallel to the alley it shall be set back at least ten (10) feet.

2.1.3. Driveways. All access driveways shall have a wearing surface approved by the DRC of asphalt, concrete, or other hard surface materials, and shall be properly graded to assure proper drainage. The driveways to access each Lot in Blocks 5, 6 and 7 of the Subdivision shall only be constructed from the adjacent alley into the Lot and shall not be constructed from the adjacent street.

2.1.4. Fencing. All fencing within Blocks 1, 2, 3, 8 and 12 shall be post and rail with a maximum top rail height of forty-two (42) inches and a minimum bottom rail height of eighteen (18) inches above the finished grade surface of the Lot. Within Blocks 4, 5, 6, 7, 9, 10 and 11, fences along property boundaries that front streets shall be not more than forty-two (42) inches high, all other fences shall be not more than sixty (60) inches high, and solid fences shall have features every sixteen (16) feet.

2.1.5. Lighting. Exterior lighting, including flood lighting, shall be part of the architectural concept of the Improvements on a Lot. Fixtures, standards, and all exposed accessories shall be harmonious with building design, and shall be as approved by the DRC. Lighting shall be restrained in design, and excessive brightness shall be avoided.



2.1.6. Wood Stoves. All wood burning stoves must be equipped with catalytic converters.

2.2. Antennae. No exterior radio antenna, television antenna or other antenna of any type shall be erected or maintained on the Property unless it is approved by the DRC. No satellite dishes shall be allowed on the Property; provided, however, that small dishes of approximately three (3) feet or less diameter may be placed in an appropriate portion of a Lot not visible from the street if allowed by the DRC, and subject to all terms and conditions, including screening, which may be imposed in the sole discretion of the DRC.

2.3. Signs. No sign of any kind shall be displayed to the public view without the approval of the DRC, and the City if otherwise so required, except:

(A) such signs as may be used by Declarant in connection with the development of the Property and sale of Lots;

(B) temporary signs naming the contractors, the architect, and the lending institution for particular construction operation; and

(C) one (1) sign of customary and reasonable dimensions not to exceed three (3) feet by two (2) feet may be displayed by an Owner other than Declarant on or from a Lot advertising the residence for sale or lease

2.4. No Mining or Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, sand, gravel or earth. This paragraph 2.4 shall not prohibit exploratory drilling or coring which is necessary to construct a residential structure or Improvements.

2.5. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, vacant Lots, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes which have been approved by the DRC), flashing lights, or search lights, shall be located, used, or placed on the Property without the prior written approval of the DRC.

2.6. Exterior Maintenance: Owner's Obligations. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair.



enclosed by a structure concealing them from view in a manner approved by the DRC. To the extent possible, garage doors shall remain closed at all times.

2.14. Energy Devices. No energy production devices, including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any portion of the Property without the written approval of the DRC, except for heat pumps shown in the plans approved by the DRC. This paragraph 2.14 shall not apply to passive solar energy systems incorporated into the approved design of a residential structure; however, they must be mounted flush with the roof and no tanks shall be mounted on a roof.

2.15. Containers. All containers, trash cans, receptacles of any description and/or tanks (whether for gas, oil or any other substance) shall be enclosed or screened from view.

2.16. Storage. No lumber, metals, bulk materials, refuse, trash, abandoned or non-operational vehicles and/or equipment shall be kept, stored or allowed to accumulate on any Lot except building materials during the course of construction or materials or substances used in reasonable agricultural activities and kept in a reasonable and orderly manner. Additionally, no machinery or equipment shall be placed or operated upon any Lot except such machinery as is customarily and ordinarily used in the maintenance of a private residence located on a similar size parcel of real property.

2.17. Livestock and Pets. No horses or other livestock, including, but not limited to poultry, cows, pigs or sheep, nor exotic or dangerous pets or animals may be kept on any or in any Lot, provided that this covenant shall not operate to prohibit the keeping of a reasonable number of household pets. When outdoors all pets shall be either in a kennel or on a leash at all times. All outdoor kennels shall be completely enclosed, including a roof, to prevent mountain lion depredation. All pet food shall be stored and fed in a manner that does not attract nuisance wildlife, such as skunks and raccoons. Lot Owners shall be responsible for controlling nuisance wildlife, and any actions taken to alleviate nuisance wildlife problems shall be those prescribed by the Idaho Department of Fish and Game.

2.18. Landscaping. A landscaping plan must accompany all plans submitted to the DRC. Landscaping is required, although it may be low maintenance in nature. The objective of the landscaping is to permit a pleasant visual transition from the Improvements to the natural ground cover. A reasonable number of trees and shrubs are required. Failure to adhere and/or complete the landscaping plan within two years from obtaining design review approval from the DRC for an Improvement requiring design review approval will constitute express authorization for the Association to take any and all action necessary to complete the landscaping plan, including, but not limited to hiring a landscaper to complete the landscaping plan and assessing the Lot Owner for the cost of completing the landscaping plan.

2.18.1.1. Cottage Lot Landscaping Plans. Landscaping on each Cottage Lot and townhouse sub-lot thereon shall be further restricted by the terms and conditions of a Landscape



rebuild said wall, and each party shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share or all of such costs in the case of negligence, the other party may have the wall repaired and restored and shall be entitled to have a mechanic's lien filed and foreclosed on the townhouse unit of the party so failing to pay for the amount of such defaulting party's share of the repair or replacement costs.

9.4. Repair. Either of the Owners shall have the right to break through a party wall for the purpose of repairing or restoring utilities within the wall, subject to the obligation to restore the wall to its previous structural and aesthetic condition, at said party's expense and the payment to the adjoining Owner of any damages caused thereby.

9.5. Easement. No Owner shall alter or change any party wall in any manner, interior decoration excepted, and any party walls shall always remain in the same location as when erected, and each Owner shall have a perpetual easement in that part of the adjoining townhouse unit on which said party wall is located for party wall purposes.

9.6. Right to Contribution. The right of either Owner to contribution from the other Owner under this paragraph shall be appurtenant to the townhouse unit and shall pass to such Owner's successors in title.

## 10 - MISCELLANEOUS PROVISIONS

10.1. Term. The covenants, conditions, and restrictions of this Declaration shall run for a period of fifty (50) years from the date hereof, unless amended as herein provided. After such date, such covenants, conditions, and Restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by at least three-fourths (3/4) of the Owners, and such written instrument is recorded with the Blaine County Recorder.

### 10.2. Amendment

10.2.1. By Owners. Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying that such amendment has been approved by the vote or written consent of at least three-fourths (3/4) of the Owners, and such an amendment shall be effective upon its recordation with the Blaine County Recorder. In addition, an amendment to any of the following provisions shall require the written consent of the City of Hailey as voted on by the City Council: 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.6, 2.4, 2.13, 2.14, 2.19, 2.21, 2.22, 3.5.2.5, 3.5.2.6, 3.5.2.7, 4.5, the last sentence of Article 6, this last sentence of Section 10.2.1, and paragraphs 3.B, 3.C, 3.G, 3.H and 4.D of Exhibit A, the Design Guidelines.



responsibility of each Owner. All utility extensions must be underground. All disturbed areas of the site must be treated as described in Section 3 of these Guidelines. All meter panels must be placed in an enclosure so that they are not visible. The gas meter shall be screened by landscaping.

### **3. ARCHITECTURAL DESIGN**

#### **A. GENERAL ARCHITECTURAL CHARACTER**

Residences in the Subdivision are intended to look like the older, traditional homes in Old Hailey

#### **B. ROOFS**

Roofs for all structures except entry porches shall be no flatter than 6:12 pitch and no steeper than a 12:12 pitch. Entry porch roofs may be flatter than a 6:12 pitch. Every roof must have a minimum of a one (1) foot overhang. Permissible roof materials are limited to non-reflective materials.

#### **C. FRONT PORCHES**

A front porch must be constructed facing the street and be a minimum of six (6) feet by twelve (12) feet in size for every single family home and duplex townhouse unit.

#### **D. GARAGES**

Garages must be located off and accessed from an adjoining alley. If there is no adjoining alley for access, then garage doors must not face the adjoining street. Garages which are accessed from an alley shall be setback to allow for snow storage. If the garage is oriented perpendicular to the alley it shall be setback at least twenty (20) feet. If it is oriented parallel to the alley it shall be set back at least ten (10) feet.

#### **E. CHIMNEYS**

Due to fire danger, all chimneys must be equipped with a U.L. or I.C.B.O. approved spark arrestor, including outdoor fireplaces.

#### **F. SOLAR APPLICATIONS**

Passive solar design is encouraged. Active solar applications can result in excessive glare and reflection, and will only be approved by the DRC if the hardware is integrated into the structure or landscaping of a lot.







**AGENDA ITEM SUMMARY**

**DATE:** 3/4/13 **DEPARTMENT:** PW - Wastewater **DEPT. HEAD SIGNATURE:** 

**SUBJECT:** Discussions of options presented by HDR Engineering for Wastewater Treatment Plant biosolids project, including removal of dome.

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

HDR Engineering has prepared a draft Preliminary Engineering Report for a new biosolids handling facility to replace the existing inefficient system under the green dome. Due to the length and technical nature of the report I have included a summary memo, a summary from HDR and some basic layout drawings for the packet. The report will be posted on the city website for those interested in additional information. Engineers from HDR will be present at the meeting to make a short presentation and answer any questions.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library             | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor               | <input type="checkbox"/> Streets            |
| <input type="checkbox"/> City Clerk         | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer          |
| <input type="checkbox"/> Building           | <input type="checkbox"/> Police              | _____                                       |
| <input type="checkbox"/> Engineer           | <input type="checkbox"/> Public Works, Parks | _____                                       |
| <input type="checkbox"/> Fire Dept.         | <input type="checkbox"/> P & Z Commission    | _____                                       |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

**ADMINISTRATIVE COMMENTS/APPROVAL:**

City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agrmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

# Public Works Memo

**To:** Mayor Fritz Haemmerle  
City Council Members

**CC:** Heather Dawson, City Administrator  
Roger Parker, Wastewater Division Manager

**From:** Tom Hellen, Public Works Director/City Engineer 

**Date:** 3/4/2013

**Re:** Wastewater Treatment Plant Biosolids Project

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During the design phase of the Woodside Treatment Plant beginning in 1997 the decision was made to use the tanks for the existing treatment plant under the green dome as the waste sludge handling facility in order to reduce construction costs. While this reduced initial costs it is an inefficient facility resulting in unnecessary ongoing O&M costs. In addition, the fiberglass dome has been reviewed by a structural engineer and is approaching a delaminated and unsafe condition. Replacement of just the dome was estimated at over \$300,000 not including removal and disposal costs while leaving the inefficient biosolids handling operation in place. The recommendation in the Wastewater Master Plan is for replacement of the existing facility with new storage basins and dewatering equipment.

A draft preliminary engineering report from HDR Engineering addresses the different biosolids treatment options at the Woodside Treatment Plant along with associated cost estimates. The attached summary from HDR outlines the thought process in arriving at the preliminary engineering report conclusions. I have also included several preliminary drawings of the layout of the facility. The entire draft report will be available on the city website for those who desire more detailed information.

The HDR Engineering report outlines the options for this project with a Class B by-product as the result and noting the additional costs for upgrading to a readily usable Class A by-product. While a Class A by-product was stated as a desired goal earlier in this process it has substantial capital and on-going O&M costs associated with it. HDR Engineering will provide additional information on the concerns with moving to a Class A by-product.

While this report notes the costs for the actual construction there are additional justifications for this project beyond costs. As noted above the condition of the fiberglass dome is becoming unsafe and requires either relaminating at an unknown cost (time & materials) or replacement. As it is also uninsulated the heating costs are estimated at \$12,000 per year. Hauling costs to Ohio Gulch along with the

liability of the haul truck on the road would be reduced with a new facility. Possible future costs for improvements to the Ohio Gulch drying beds with tightened EPA rules are unknown.

Construction will include two concrete aeration basins with associated piping, blowers and pumps to the south of the existing SBR basins and a building to house the new thickening and dewatering equipment. If the end product is desired to be Class A there will be additional equipment and expense required.

New equipment will include two thickeners, one dewatering unit, chemical systems and various pumps and blowers necessary for the operation. As our sludge at 0.5% solids is insufficient for efficient dewatering the thickeners are used to provide a 2.5 – 3% sludge concentration for the dewatering unit. This also greatly reduces the size of the aeration basins. An explanation of the dewatering process will be provided by HDR Engineering at the meeting.

### **Costs**

The recent refinancing of both the Water and Sewer bonds was completed last November. The result on individual monthly utility bills is an estimated increase of \$0.99 to the sewer bond payment, an estimated decrease of \$0.42 to the water bond payment for a net overall increase of \$0.57. This refinancing included a buy down of the sewer bond principal from the Wastewater Replacement fund.

A new bond for the biosolids facility would be an estimated \$1.80 per month per \$1 million borrowed assuming a 3% interest, 20 year bond. Offsetting that would be efficiencies gained in the operation of the treatment plant that would reduce the base monthly fee and the rate per 1,000 gallons. A final estimated net effect will be prepared for the March 18, 2013 council meeting.



## 1 Executive Summary

The City of Hailey is located in central Idaho and has a population of 7,960 (US Census, 2010). The recent population growth that the City experienced is less than the 4.5 percent population estimate provided in the 2012 Wastewater Facility Plan.

For the purpose of this Preliminary Engineering Report, the flows and loads were updated. The population projections were modified based on the City's recommendation to use a 2.5 percent population increase from the 2010 Census population. The per capita flows and loads were updated based on historic flows and loads. The 20 year (2033) maximum month design flow for this project is 1.2 million gallons per day (mgd).

The existing biosolids handling facilities at the wastewater treatment plant include waste activated sludge (WAS) pumping, aerobic digestion, gravity thickening, and digested sludge pumping. When the sequencing batch reactor treatment plant was constructed, the existing packaged treatment plant was converted to an aerobic digester and gravity thickener. The existing aerobic digester (former packaged treatment plant) is covered with a fiberglass dome.

Liquid digested solids are currently hauled to the Ohio Gulch Transfer Station and Landfill under a contract that extends through 2019. The City provides labor and equipment to haul the solids and maintain the drying beds. As the City moves forward with their biosolids management program, they do not want to continue maintenance of the drying beds. Additionally, by reducing the time that the operators spend hauling sludge, they will be at the treatment plant which will be valuable as treatment limits become more stringent and operation becomes more complicated. By modifying the solids treatment process, the City of Hailey could consider alternate biosolids management alternatives including beneficial reuse of biosolids through land application.

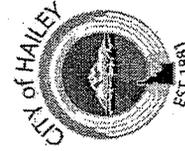
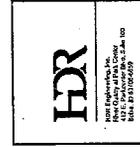
The recommended facilities include new thickening equipment, a replacement digester, and new dewatering equipment. WAS will be pumped to a replacement aerobic digester, which will consist of two concrete tanks, aeration, and mixing. Modifications to the existing wasting process are not recommended. However, since the solids concentration in the WAS are too low to thicken prior to digestion, the recommended process is recuperative thickening. In this process, a portion of the digester contents are pumped to the thickening units. The thickened material is returned to the digester and mixed with the WAS. The water that is removed from the thickened material is returned to the headworks for treatment. A small portion of the circulating sludge flow will be removed from the circulating sludge loop and sent to the dewatering unit to produce a dewatered cake for disposal. The thickening and dewatering processes are enhanced through the addition of polymers.

The City can dispose of the dewatered biosolids in a dumpster that is hauled by the waste services company to the landfill, the biosolids could be loaded into a dump truck and hauled to the landfill by the City on a less frequent basis, or there is potential to give the Class B material to a user who will produce compost or some other Class A biosolids product pending DEQ and EPA approval. This project keeps the operators and plant staff at the wastewater treatment plant and does not require them to haul liquid sludge or maintain the sludge drying beds at the Ohio Gulch Landfill.

Drawings For  
**City of Hailey  
 Wastewater Department**

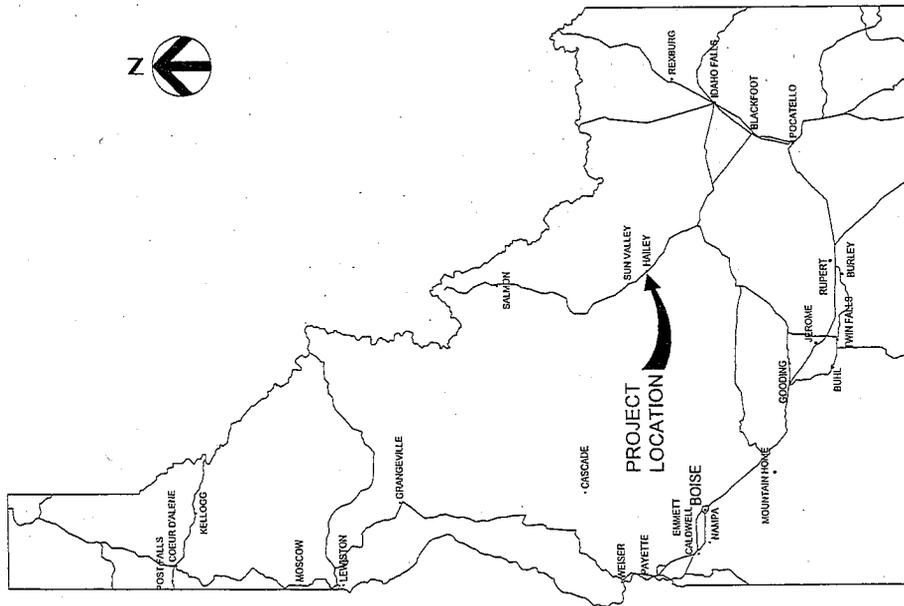
**Preliminary Engineering  
 Report**

Draft for City Review  
 HDR Project No.  
 00000000196902  
 FEBRUARY 2013

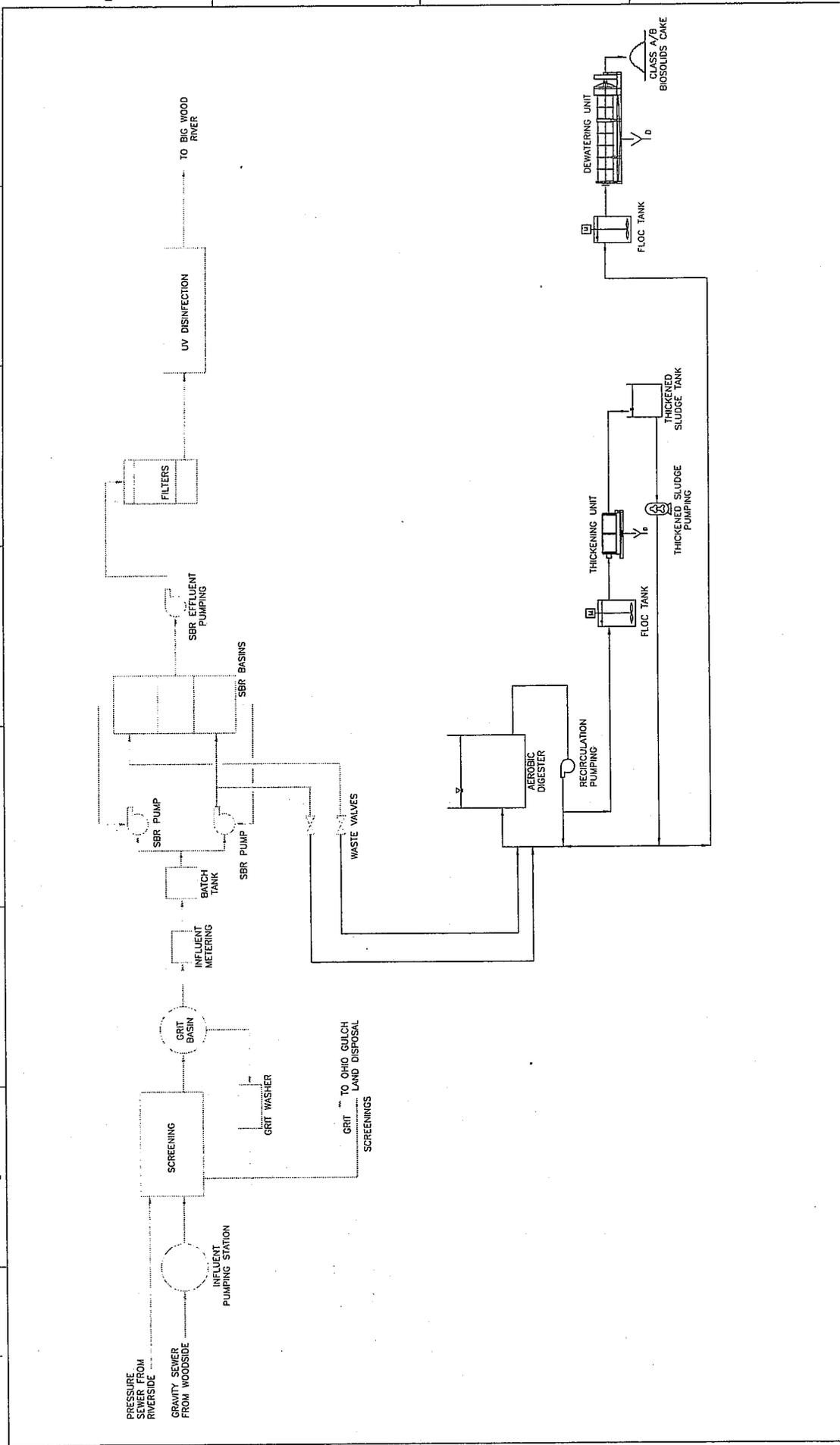


**INDEX OF DRAWINGS**

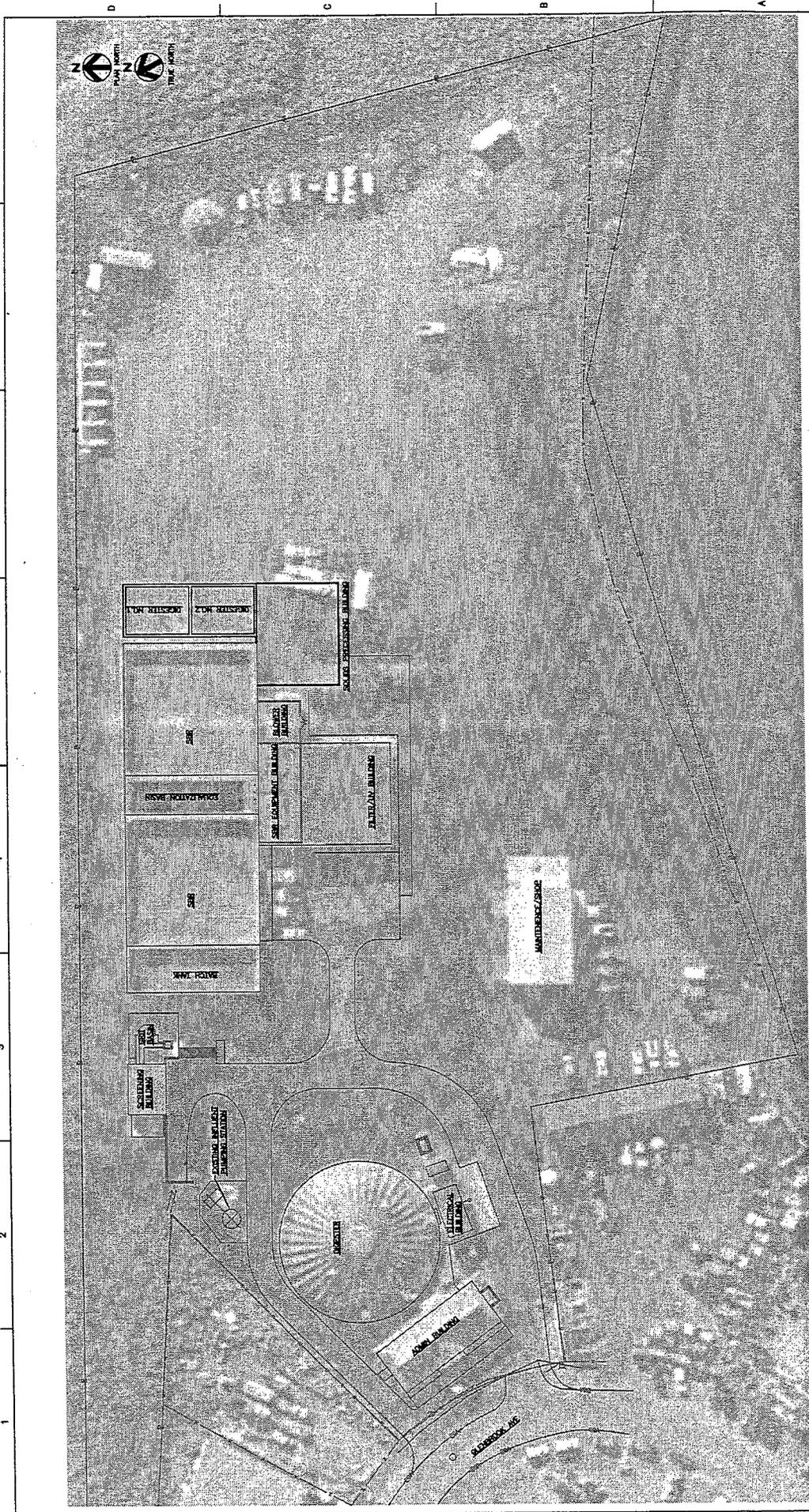
<b>GENERAL</b>	COVER SHEET
C-01	GENERAL LEGENDS AND SYMBOLS
G-02	GENERAL ABBREVIATIONS
G-03	PROCESS FLOW DIAGRAM
G-04	OVERALL SITE PLAN
G-05	
<b>CIVIL</b>	DEMOLITION PLAN
C-01	SITE AND YARD PIPING PLAN
C-02	
<b>PROCESS</b>	EXISTING PUMP ROOM PLAN
D-01	DIGESTER PLAN
D-02	DIGESTER CONTROL ROOM -- LOWER LEVEL PLAN
D-03	DIGESTER CONTROL ROOM -- MAIN LEVEL PLAN
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<b>ELECTRICAL</b>	SCADA NETWORK DIAGRAM
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<b>INSTRUMENTATION AND CONTROL</b>	SYMBOLS, LEGENDS AND ABBREVIATIONS
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Y-02	THICKENING
Y-03	DEWATERING
Y-04	AERATION AIR
Y-05	CHEMICAL ADDITION
Y-06	



**LOCATION MAP**



 <small>HDR ENGINEERS, INC.</small>	<p style="font-size: 2em; margin: 0;"><b>DRAFT</b></p> <p style="font-size: 0.8em; margin: 0;">NOT FOR CONSTRUCTION</p>	 CITY OF HAILEY WOODSIDE WASTEWATER TREATMENT PLANT PRELIMINARY ENGINEERING REPORT	<p style="font-weight: bold; margin: 0;">GENERAL PROCESS FLOW DIAGRAM</p>																																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">ISSUE</th> <th style="width: 50%;">DATE</th> <th style="width: 100%;">DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		ISSUE	DATE	DESCRIPTION																															<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: 0.8em;">PROJECT MANAGER</td> <td style="font-size: 0.8em;">TERRY ENGBER</td> </tr> <tr> <td style="font-size: 0.8em;">DRAWN BY</td> <td style="font-size: 0.8em;">M. ZETNER</td> </tr> <tr> <td style="font-size: 0.8em;">CHECKED BY</td> <td style="font-size: 0.8em;">E. SJOBERG</td> </tr> <tr> <td style="font-size: 0.8em;">PROJECT NUMBER</td> <td style="font-size: 0.8em;">100000000185902</td> </tr> </table>	PROJECT MANAGER	TERRY ENGBER	DRAWN BY	M. ZETNER	CHECKED BY	E. SJOBERG	PROJECT NUMBER	100000000185902	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: 0.8em;">SCALE</td> <td style="font-size: 0.8em;">N/A</td> </tr> <tr> <td style="font-size: 0.8em;">FILENAME</td> <td style="font-size: 0.8em;">G-04.dwg</td> </tr> <tr> <td style="font-size: 0.8em;">SHEET</td> <td style="font-size: 0.8em;">G-04</td> </tr> </table>	SCALE	N/A	FILENAME	G-04.dwg	SHEET	G-04
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**GENERAL OVERALL SITE PLAN**

SHEET **G-05**

DATE: 0-05-04  
SCALE: 1"=30'-0"

**CITY OF HAILEY**  
WOODSIDE WASTEWATER TREATMENT PLANT

PRELIMINARY ENGINEERING REPORT

DRAFT

NOT FOR CONSTRUCTION

PROJECT MANAGER	HAILEY FALCOWNER
DESIGNED BY	M. ZELINGER
DRAWN BY	E. SORBERG
CHECKED BY	P. BOE
PROJECT NUMBER	00000000198602

ISSUE	DATE	DESCRIPTION



